

# Town of Mashpee

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## Planning Board Minutes 03-19-2014

### Mashpee Planning Board

#### Minutes of Meeting

March 19, 2014 at 7:00 p.m.

Wauquoit Meeting Room, Mashpee Town Hall

Approved 4-0 on 4-16-14

**Planning Board Members Present:** Chairman George Petersen, Mary Waygan, Dennis Balzarini, David Kooharian, Joe Cummings

**Also Present:** Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer, Selectman Tom O'Hara

**Absent:** Joe Mullin

### CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Wauquoit Meeting Room at Mashpee Town Hall by Chairman Petersen at 7:05 p.m. on Wednesday, March 19, 2014 and the Pledge of Allegiance was recited.

### APPROVAL OF MINUTES—February 19, 2014 & March 5, 2014

The Chair indicated that there were some minor changes for the February 19 minutes and the March 5 minutes were not yet completed, and requested that markups be discussed at the next meeting.

### PUBLIC HEARING

**7:10 Applicant: BCDM, LLC**

**Location: On and between Blue Castle Drive and Degress Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48**

**Request: Approval of a Special Permit for a 15 lot cluster subdivision**

**7:10 Applicant: BCDM, LLC**

**Location: On and between Blue Castle Drive and Degress Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48**

**Request: Approve 15 lot cluster subdivision Definitive Subdivision Plan**

The appointed time having arrived, Chairman Petersen opened both public hearings and read for the record the applicant's request. Matt Costa of Costa Associates represented the applicant, along with Attorney Brian Wall. Mr. Costa summarized the tasks they were asked to complete including the collection of data for Blue Castle Road, including the traveled way now and the road layout, with the intersection of Great Neck Road. Mr. Costa reported that the applicant would be agreeable to relocating the traveled way into the layout. Mr. Costa distributed survey data to the members of the Board highlighting the existing traveled way, existing driveways and landscaping features. Also included was a conceptual proposal for constructing a new gravel way within the road layout with an 18 foot width at the entrance of Great Neck Road. Mr. Rowley had not previously received the information for review. Mr. Costa pointed out the existing gravel traveled way located on 8 Blue Castle. Mr. Costa noted that the option was similar to option #2 in the draft decision, with the exception of paving, noting that the applicant could not offer paving. Mr. Costa submitted photographs to include existing landscaping features and the existing traveled way. Mr. Costa submitted an additional conceptual design indicating that the gravel way could be improved and that drainage could be added to the layout, and showing that option 1 of the draft decision could also work. Mr. Costa also noted the possibility of adding pavement around the catch basins and expected the natural grades would work without major changes to the grading. Mr. Costa requested that it be made a condition for approval with the engineering details worked out with Mr. Rowley.

Mr. Balzarini inquired whether the drainage systems would address the runoff from Great Neck Road South. Mr. Costa indicated that a rolled berm would be proposed to prevent runoff from Great Neck South, but that their drainage would handle runoff from the apron, which would be part of the plan. Mr. Costa pointed out that 20 feet

of pavement could fit if the road were paved in the future. Mr. Costa added that the drainage would likely need to be subsurface, but that more details would need to be worked out with Mr. Rowley, though it was unlikely there would be sufficient space for a typical swale. Mr. Balzarini expressed concern about the amount of silt that may enter the system and Mr. Costa responded that there would be a stone apron preceding the paved area to create a natural slow down for the silt. It would also be part of the maintenance program in the covenant. Mr. Rowley indicated that, as seen, he was not prepared to state that it would be adequate and noted that there were other considerations, such as runoff from a slope on the west end, and the crown that would be placed on the road. Mr. Rowley indicated that further information was needed. Mr. Rowley pointed out that the driveway for #8 would need to be extended to the new location. Mr. Costa responded that option 1 should be kept as a condition in the decision because the gravel road made sense when considering the centerline and expressed concern about significant existing landscaping. Mr. Costa indicated that this was there 12<sup>th</sup> hearing and they wished to have the issue finalized.

Mr. Balzarini referenced plan 1 with no catch basin and Mr. Costa responded that it would be a paved spillway, adding that he submitted concepts and not plans, with rough calculations. Mr. Costa indicated that he would submit more detailed plans to Mr. Rowley but was attempting to lock down the concepts and condition language.

Ms. Waygan referenced #9 condition allowing Mr. Rowley to report to the Board and read the condition. Mr. Fudala pointed out that the width was changed from 12 feet to 16 feet. Mr. Balzarini inquired about the ramifications of accepting the design but having it fail in two years, and suggested setting aside funds in escrow. Mr. Fudala referenced the potential for a Blue Castle vacant lot owner wishing to acquire a building permit who could be required to build a road within the layout, and the challenges created should this project remain in the current traveled way. Mr. Fudala recommended that work be completed within the layout, regardless of paving, as it would set up the potential for future completion of the road. Mr. Costa stated that the property owner of #8 could grant an easement for any future improvement of the road. Chairman Petersen inquired about the future should Blue Castle become a town road, if it was not placed within the proper layout. Mr. Rowley expressed his opinion that the Town could accept an easement for the location of the road where it existed. Mr. Wall agreed and in reference to Mr. Balzarini's concern, highlighted the association's maintenance obligation. Mr. Balzarini reiterated his concern about the effectiveness of the drainage which could be determined to be unrelated to the road maintenance at a future date. Mr. Fudala suggested that the DPW would want to have the apron paved in the Great Neck Road layout. Mr. Costa suggested that the soil in the area was sandy and did not anticipate soil issues, and although there were no guarantees, the maintenance plan would be in place. Regarding paving from Great Neck Road South to the basins, Mr. Costa stated that the applicant had already indicated that it was not an option.

The Chair inquired of the Board their thoughts on whether to relocate the road to the proper layout. Mr. Cummings and Mr. Balzarini felt that the road should be moved to its layout. Mr. Kooharian was not at issue with the road as it existed but with abutter support to relocate, Mr. Kooharian also supported laying it in its proper layout. Mr. Costa recommended leaving both options in the decision. Ms. Waygan expressed her preference that both options not be placed in the decision particularly if the abutter most affected by the change supported laying the road out in its proper layout. Ms. Waygan inquired about the status of the existing way and it was stated that the homeowner would need to loam and re-seed the area. Mr. Costa stated that they would not loam and seed as it was private property, and echoed his request to leave both options within the decision. Mr. Rowley referenced the old Asher's Path that was eliminated and landscaped and recommended that an approval should include scarifying, loaming and seeding the abandoned access by the developer. Mr. Costa again pointed out that it was on private property but Mr. Fudala responded that the homeowner submitted a letter indicating his willingness to work cooperatively. Mr. Rowley pointed out that the equipment would already be at the location working on drainage and laying out the new road. Mr. Costa stated that wording would need to be included about acquiring the appropriate permission. Mr. Wall expressed concern if the homeowner did not grant permission. A condition will be drafted incorporating "if the owner agrees."

There was consensus to strike option 1 but Mr. Fudala suggested that Mr. Rowley first review plans prior to finalizing the decision. Mr. Rowley will work with Mr. Costa regarding a plan and present his recommendations to the Board. Mr. Costa asked to close the hearing and reopen for comments in two weeks but Mr. Fudala stated that the hearing needed to be continued.

Ms. Waygan inquired whether the applicant would accept the condition of transferring the affordable parcel within three years of the date of endorsement of the special permit and Mr. Wall responded that they did accept it. Ms. Waygan asked that the wording be added to #3, "must be completed within three years." There was discussion regarding whether the zoning bylaw needed to be part of the decision. Mr. Fudala stated that the applicant was working on the aggregation agreement which would allow no more than 3 bedrooms. Additionally, the home

would not be part of the association as it would be an additional cost burden.

Mr. Wall referenced the stop signs and speed radar, and stated that the applicant had asked that the Board reconsider the radar sign due to the added expense. Mr. Fudala stated that it was located under Traffic Mitigation, noting that it included 4-way stop signs and \$3,000 toward the radar. Mr. Costa suggested that the funds could be better spent elsewhere. The Chair indicated his wish to first hear from the public.

Chairman Petersen read for the record Mr. Virgilio's letter (7 Blue Castle) regarding his preference that the road be located in its proper layout and disagreement with the gravel construction and the need for pavement to better control drainage.

Linda Lubelczyk of Tracy Lane recommended that the Board maintain traffic mitigation for the radar sign as the development would be adding additional traffic to the neighborhood. Additionally, Ms. Lubelczyk expressed concern regarding the potential for drainage to fill up. Ms. Lubelczyk added that she understood that the radar sign would not be used exclusively for the neighborhood but hoped that it would help to slow people down when cutting through the neighborhood.

Eric Lubrano, Blue Castle Drive, expressed his preference that the road be laid out in its proper location to alleviate future questions and liability.

Peter Michaelson, Degross Road, inquired about pavement of the new road and it was confirmed that there would be paving in front of the development. Mr. Michaelson inquired whether a cost could be proposed to the neighborhood to complete the paving of the road, since the equipment would be in the neighborhood. Mr. Michaelson has had experience developing subdivisions and suggested that the developer had not made his best effort to provide an easily approved plan for this subdivision. The Chair pointed out that the Town would gain from the cluster subdivision through open space and affordable housing. The Chair added that the increased width of the road, the improvements and the association would make Blue Castle more viable.

Mr. Rowley referenced the 18 foot width and 16 foot Fire Department clearance requirement and Mr. Costa confirmed that it would be 18 feet at Great Neck Road to the catch basins, tapering back to 16 feet. Mr. Rowley recommended the possibility of 18 feet being extended beyond the catch basins and recommended the need for a final profile and cross sections.

Mr. Kooharian inquired whether a cost could be provided to residents for the pavement of the road. Mr. Costa suggested an estimate of approximately \$400 per linear foot for road construction, based on his past experience. Mr. Kooharian suggested that there could be cost savings if pavers were already in the neighborhood, as well as in the long run for road maintenance. Mr. Fudala added that the owner of a vacant lot on the street had also expressed interest in contributing towards the pavement of the road.

Mr. Lubrano asked for clarification of the road widths and Mr. Costa confirmed that it would be 18 feet then 16 feet and 20 feet for the paved area, with a 2 foot clearing on each side.

Chairman Petersen confirmed wording changes in the decision. Regarding traffic mitigation, Planning Board members expressed their interest in maintaining the \$3,000 mitigation for the purpose of purchasing the traffic radar. Mr. Costa provided a letter of extension for the subdivision plan for an additional 60 days.

**MOTION: Mr. Balzarini made a motion to continue both public hearings to April 2 at 7:20 p.m. Ms. Waygan seconded the motion. All voted unanimously.**

A recess was taken at 8:20 p.m. and the meeting reconvened at 8:25 p.m.

#### **DEFINITIVE SUBDIVISION PLAN**

**Applicant: Federal National Mortgage Association c/o Cotuit Solar LLC**

**Location: 36 Savanna's Path / Trinity Place**

**Request: Signature of 1-lot definitive subdivision plan**

The Chair read the request. Michael Aucoin, representing the applicant, distributed plans to the members of the Board. Mr. Fudala inquired about the covenant but Mr. Aucoin indicated that it still required a signature from the Town Clerk. It was noted that a revised date of March 15<sup>th</sup> was needed for the plan. Additionally, Mr. Fudala

pointed out that the notation for end of Trinity Place layout/beginning of Savanna's Path layout had not been notated on the plan. Mr. Aucoin will make the notation in pen. The subdivision plans were signed by Planning Board members.

## DISCUSSION

**Proposed Withdrawal from Cape Cod Commission**-Selectman O'Hara reported that he initiated the petition due to the mitigation imposed upon Bridges of Mashpee by the Cape Cod Commission. Selectman O'Hara specifically referenced the affordable housing mitigation which totaled \$1.8 million for the 60-bed memory care facility, at a time when there was significant need for the services on Cape Cod. Selectman O'Hara stated that the 10% formula had been established for homes and should not have been used for the facility. Selectman O'Hara added that the facility would introduce 35 new jobs with benefits to the area, with very low impact to the environment. Selectman O'Hara explained that, to fulfill the mitigation, 6 beds in the facility would be based upon 75%-85% poverty level income, totaling \$2,250 per month per unit. Typical base units ranged in a monthly cost of \$6300-\$7500. The reduced beds would be in place for 5 years. Selectman O'Hara indicated that he was concerned about causing harm to developers but applauded services that have been offered by the Commission. Selectman O'Hara noted that Mashpee paid dues to the Commission in the amount of \$188,000 and recommended giving the voters the opportunity to decide. Selectman O'Hara also referenced the traffic mitigation in the amount of \$108,000 and historic contribution of \$22,500. There was discussion about growth and the need for jobs on the Cape.

Paul Niedzwiecki of the Cape Cod Commission indicated that the affordable housing provisions of the Regional Policy Plan were established five years ago and agreed that they should be adjusted. Mr. Niedzwiecki also stated that a town vote to eliminate the Cape Cod Commission was the wrong avenue to address the issues. The Cape Cod Commission Act was adopted in 1990 by county-wide vote, protected by a statute. Mr. Niedzwiecki stated that the Board of Selectmen appointed a member to the Cape Cod Commission and each town also elected a member to the County of Assembly of Delegates, both of which serve as a platform for suggesting changes. Additionally, the Regional Policy Plan was due for an outside review and recommended changes. Mr. Niedzwiecki suggested the possibility of engaging in a process to make changes with certainty in a short period of time, rather than extending the debate through a citizen's initiative petition. Also, the petition would not provide the financial information that the voters would need to make an informed decision, as the costs of local government would increase. Mr. Niedzwiecki summarized recent collaborative work with Cape towns, providing resources in order to complete important projects, including the raising of thresholds so that some projects would remain within the town. Mr. Niedzwiecki also referenced addressing wastewater issues on Cape Cod terms and the flood plain map issues by providing resources. Mr. Niedzwiecki agreed that improved communication was needed.

Mr. Fudala pointed out that prior to the Cape Cod Commission; towns were paying for a regional planning agency. Mr. Fudala added that land use data needed for wastewater planning was completed by the Cape Cod Commission at no additional cost to the Town, beyond annual dues. Mr. Niedzwiecki noted that elimination of the Cape Cod Commission would reduce each property owners' property tax by an average of just \$17 per year. Mr. Balzarini suggested that the Commission was collecting increased fees with the increased population. Mr. Niedzwiecki indicated that, when factoring in inflation, the assessment for the Commission had decreased because tax assessments had increased. In addition, the Cape Cod Commission was funded off of a fixed figure so grant funds were essential for continued success. Mr. Niedzwiecki added that there were fewer Commission employees than there were six years ago. Mr. Niedzwiecki summarized other Cape specific issues being addressed such as seasonal traffic issues, broadband initiatives and the aquifer. There was discussion about the economic burden of year round residents.

Ms. Waygan referenced the Planning Board's inability to act on the Bridges of Mashpee while being reviewed by the Cape Cod Commission and Mr. Niedzwiecki responded that most towns preferred not to have a joint review but applications could be joint reviewed on a voluntary basis. Regarding affordable housing, Ms. Waygan recommended a financial cap on the affordable housing mitigation for example \$100,000 per unit. Mr. Niedzwiecki suggested the possibility of exempting certain types of facilities. Ms. Waygan also recommended, regarding Chapter H, to seek out comments from Planning Boards as the Board would want to know if thresholds were being changed. Mr. Niedzwiecki emphasized that he wanted to work on areas of concern with Mashpee. Ms. Waygan also recommended that the Cape Cod Commission provide changed verbiage with the public hearing notice when making changes to documents. Mr. Fudala also inquired whether the draft decisions be automatically forwarded to the Boards with a specific request for comments and Mr. Niedzwiecki asked that he forward that recommendation by email. It was recommended that the Cape Cod Commission visit the Planning Boards one or two times per year. Selectman O'Hara also stated that the door should be open both ways and if members of the Mashpee community had concerns, those issues should be shared with the Cape Cod Commission or support expressed for certain

projects.

#### **BOARD ITEMS**

##### **Old Business**

**Discussion of Greenways Proposal and Surrounding Commercial Property**-No update

**Community Preservation Committee**-No update

**MMR Military Civilian Community Council-Update of MMR Joint Land Use Study**-No update

**Environmental Oversight Committee**-No update

**Design Review Committee**-No update

**Charter Review**-No update

**Historic District Commission**-No update

##### **New Business**

**C. Rowley Expense Vouchers**-No invoices at this time

##### **Schedule Hearing Date for May Zoning Articles**

**MOTION: Mr. Balzarini made a motion to schedule a public hearing for the Zoning Articles on the Town Warrant for April 16 at 7:10 p.m. Mr. Kooharian seconded the motion. All voted unanimously.**

#### **CORRESPONDENCE**

-Whitewater, Inc. – SouthCape Village WWTP January 2014 discharge monitoring report N=5.32

-John O. Harris-Notice of Waterways License Application for seasonal dock at 107 James Circle

#### **ADJOURNMENT**

**MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting adjourned at 9:26 p.m.**

Respectfully submitted,

Jennifer M. Clifford  
Board Secretary

#### **LIST OF DOCUMENTS**

-Ockway Highlands Special Permit Decision

-Ernest Virgilio Letter

-May 2014 Zoning Articles

-Special Town Meeting Warrant

-Chatham FEMA Flood Map Update

-Cape Cod Commission Fertilizer Bylaw

-Summer Population Projections

-Route 151 Improvements